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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

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In re:

Greenridge Fruit, Inc.,

Respondent

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PACA Dkt No. D-98-0026

Decision without Hearing by Reason of Consent

A complaint, filed on August 26, 1998 pursuant to the Perishable Agricultural Commodities Act (7 U.S.C. §499a *et seq.*), hereinafter the PACA, alleges that Respondent wilfully, flagrantly, and repeatedly violated Sections 2(4), 2(5), and 9 of the PACA (7 U.S.C. §§499b(4), 499b(5), 499i) by making false or misleading statements and misrepresenting by word, act, mark, stencil, label, statement, or deed the variety of apples that it packed and sold in interstate commerce by selling Paula Red apples, which it represented and labeled as McIntosh apples. The parties have agreed to settle this matter without hearing through the entry of a consent decision, pursuant to which Complainant has moved for the following decision and order to be entered without further procedure or hearing. Accordingly, this Decision without Hearing by Reason of Consent is issued pursuant to section 1.138 of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary (7 C.F.R. §1.138).

Findings of Fact

1. Respondent, Greenridge Fruit, Inc., is a corporation organized and existing under the laws of the State of Michigan with a business mailing address of 5154 Peach Ridge Avenue, N.W., Grand Rapids, Michigan 49544.
2. At all times material herein, Respondent operated subject to the provisions of the PACA. License number 900577 was issued to Respondent on February 1, 1990 and is next subject to renewal on or before February 1, 2000.
3. Between August 29, 1997 and October 1, 1997, as set forth in section III of the complaint, Respondent made false or misleading statements and misrepresented by word, act, mark, stencil, label, statement, or deed the variety of apples that it packed and sold in interstate commerce by selling 156 trays and 865 bags of Paula Red apples, which it represented and labeled as McIntosh apples.

Conclusion

Respondent's false and misleading statements and misrepresentations constitute wilful, flagrant, and repeated violations of Sections 2(4), 2(5), and 9 of the PACA (7 U.S.C. §§499b(4), 499b(5), 499i), for which the following Order is issued.

Order

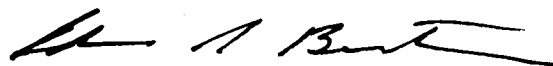
Pursuant to Section 8(e) of the PACA (7 U.S.C. §499h), Respondent is assessed a civil penalty of \$42,000.00.

This order shall become final and effective upon issuance.

Copies hereof shall be served upon the parties.

Issued at Washington, D.C.

This 15 day of April, 1999



EDWIN S. BERNSTEIN

Administrative Law Judge

For Respondent

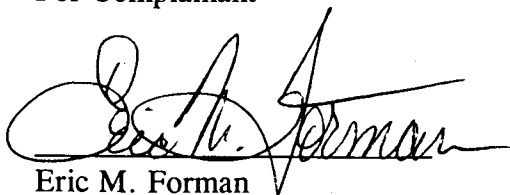


John J. Niederer
President

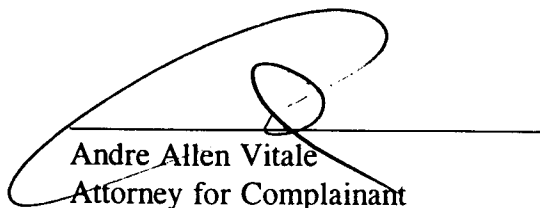


Robert G. Hibbert
Attorney for Respondent

For Complainant



Eric M. Forman
Associate Deputy Administrator



Andre Allen Vitale
Attorney for Complainant